

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7782

Investigation into the Establishment of a Standard-)
Offer Price for Baseload Renewable Power under)
SPEED Program)

Order entered: 11/7/2011

ORDER RE MOTION TO INTERVENE

On October 5, 2011, Beaver Wood Energy, LLC ("BWE") filed a motion to intervene in this docket. In its motion, BWE asks that it be allowed to intervene as of right, pursuant to Public Service Board ("Board") Rule 2.209(A), and in the alternative asks that it be granted permissive intervention pursuant to Board Rule 2.209(B).

In its motion to intervene, BWE indicates that it is in the process of developing a 35 MW biomass facility in Fair Haven, Vermont, and contends this proceeding will have a direct impact on BWE's interests with regard to power purchase agreement(s) it seeks for the output of its proposed facility. BWE contends that in this proceeding the Board will make findings as to the appropriate methodology to price the output of large biomass facilities, and as a developer of biomass facilities, it has substantial interest that may be adversely affected by the outcome of the instant proceeding. BWE maintains, given its knowledge of its cost structures, that it is the only one who can represent its interests, and therefore no other party can adequately protect its interests. BWE further states that its intervention will not unduly delay the proceedings or prejudice the interests of existing parties or the public.

On October 21, 2011, Ryegate Associates ("Ryegate") filed a response opposing BWE's motion to intervene.¹ Ryegate states that this proceeding has a narrow charge under 30 V.S.A. § 8009(d), applying to "renewable power from an in-state woody biomass plant that was

1. Ryegate is the owner of an existing 20.5 MW biomass generation facility in Ryegate, Vermont.

commissioned prior to September 30, 2009," and that the specific price setting criteria under Section 8009(d) are directed solely at Ryegate and have no application to other existing or future facilities. Ryegate contends that BWE's claim that this proceeding represents the setting of rates for energy produced by biomass facilities is not correct and is not a basis for intervention. Ryegate further contends that BWE's concerns about the potential precedential effect on BWE's interests does not constitute sufficient interest to support intervention, and is not supported by Board precedent.²

Pursuant to the Board's Rule 2.209(A)(3), the Board shall consider intervention as of right "when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding." Pursuant to the Board's Rule 2.209(B)(3), the Board shall consider permissive intervention "when the applicant demonstrates a substantial interest which may be affected by the outcome of the proceeding."

BWE has not demonstrated a substantial interest in the proceeding which may be adversely affected by the outcome of the proceeding. BWE incorrectly concludes that in this proceeding the Board will make findings as to the appropriate methodology to price the output of large biomass facilities. Pursuant to Section 8009(a)(2), the Board is required to establish a standard-offer price for baseload renewable power from "an-state woody biomass plant that was commissioned prior to September 30, 2009, and has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011." Thus, this proceeding is establishing a standard-offer price for the existing Ryegate facility, not for biomass facilities generally. Moreover, the pricing methodology set out in the statute only applies to Ryegate; the statute does not direct the Board to set prices for other biomass facilities nor does it set methodology that would apply to purchase from such facilities. The statute also does not apply to bilateral arrangements between a new biomass facility and a Vermont distribution utility. BWE has not demonstrated how establishing a standard-offer price for the Ryegate facility is precedential for any power purchase agreement(s) it seeks for the output of its proposed facility. Therefore, we deny BWE's motion to intervene.

2. Ryegate cites *Petition of EMDC*, Docket 6911, Order of 6/23/04 at 3 (citing *Petition of Waitsfield-Fayston Telecom Company*, Docket 6922, Order of 3/25/04 at 2).

SO ORDERED.

Dated at Montpelier, Vermont, this 4th day of November, 2011.

s/Mary Jo Krolewski

Mary Jo Krolewski
Hearing Officer

s/George E. Young

George E. Young
Hearing Officer

OFFICE OF THE CLERK

FILED: November 7, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)